

Williams Services, Inc. and International Association of Machinists and Aerospace Workers, AFL-CIO. Cases 11-CA-13674-1 and 11-CA-13852

October 30, 1992

DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS

DEVANEY AND OVIATT

On April 11, 1991, the National Labor Relations Board issued a Decision and Order,¹ *inter alia*, ordering Williams Services, Inc. to rescind the pay reduction announced and implemented on or about March 20, 1990; to make whole all employees affected by the unilateral pay cut instituted on or about March 20, 1990; to offer its employee Kitty Cadorette immediate and full reinstatement to her former job or, if that job no longer exists, to a substantially equivalent position; and to make her whole for any loss of earnings, plus interest, resulting from the illegal actions against her. On September 13, 1991, the United States Court of Appeals for the Fourth Circuit entered an order enforcing the Board's Order.

A controversy having arisen over the amount of backpay due discriminatees, on March 31, 1992, the Regional Director for Region 11 issued a compliance specification and notice of hearing alleging the amount due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent failed to file an answer.

By letter dated July 10, 1992, the General Counsel advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed by the close of business on July 17, 1992, summary judgment would be sought. The Respondent filed no answer.

On August 3, 1992, the General Counsel filed with the Board a Motion for Summary Judgment, with appendices attached. On August 4, 1992, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent failed to properly file a response.² The allegations in the motion and

in the compliance specification are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on the Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the net backpay due the discriminatees is as stated in the compliance specification and we will order payment by the Respondent to the discriminatees.

ORDER

The National Labor Relations Board orders that the Respondent, Williams Services, Inc., Columbia, South Carolina, its officers, agents, successors, and assigns, shall make whole the individuals named below, by paying them the amounts following their names, with interest to be computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173

a basis for denying the General Counsel's motion for summary judgment. As indicated, the Board's underlying decision was enforced by the court of appeals. Further, regardless of the exact date that the Respondent received or discovered the March 31, 1992 compliance specification and the General Counsel's July 10, 1992 letter, the Respondent has since had more than sufficient time to answer the compliance specification but has failed to do so. Finally, it is well established that the institution of bankruptcy proceedings does not deprive the Board of jurisdiction or authority to entertain and process an unfair labor practice case to its final disposition. *Phoenix Co.*, 274 NLRB 995 (1985). Board proceedings fall within the exception to the automatic stay provisions for proceedings by a governmental unit to enforce its police or regulatory powers. *Id.* and cases cited therein.

Contrary to his colleagues, Member Devaney in the circumstances of this case would accept the letter filed pro se by the Respondent's vice president in response to the Notice to Show Cause, and would deny the General Counsel's Motion for Summary Judgment.

¹ 302 NLRB 492.

² Although the Respondent timely filed a letter with the Board on August 18, 1992, responding to the Notice to Show Cause, the Respondent failed to attach an affidavit of service on the parties as required by the notice. In any event, the Respondent's letter does not even attempt to answer the allegations in the compliance specification. Rather, it alleges only that the Board's underlying decision was unfair and unfounded, that the Respondent had intended to appeal the Board's decision but was unable to do so, that the compliance specification was not received until April 20, 1992, that the Respondent misplaced the General Counsel's July 10, 1992 letter and did not discover it until July 21, 1992, and that the Respondent filed for bankruptcy on February 14, 1992. None of these allegations are

(1987), minus tax withholdings required by Federal and state laws:

Allen, Regina A.	\$445.62
Anderson, Normita A.	487.43
Anfield, Jane M.	197.39
Aubain, Louise A.	5.74
Barker, Eddie	22.05
Berry, Sylvia G.	445.62
Bishop, Marilyn D.	505.81
Boyd, Mary S. Simmons	287.68
Brown, Gregory E.	404.71
Brown, Herbert Lee	56.25
Brown, Jacqueline R.	18.79
Bruce, Debra A.	442.20
Carrasquillo, Jesus	147.12
Chaplin, Ricky C.	463.53
Chisolm, Isaac Jr.	466.64
Cleveland, Karen	316.96
Delaney, Evelena	163.34
Doe, Kenneth R.	460.43
Doe, Laverne	483.28
Ecook, Anne	53.21
Evans, Vernon	120.67
Ford, Cynthia C.	524.87
Fowlkes, Ruteria	260.95
Fox, Larry Antonie	4.50
Fripp, Shelia	179.65
Gates, Zunkee	69.53
Harvin, Rhonda	114.62
Jenkins, Cordelia C.	492.72
Johnson, James D.	76.00
Johnson, Leatha J.	133.82
Jones, Charlene L.	212.51

Jones, Jamal Q.	96.03
Kock, Lillian T.	97.99
Lesu, Ivy	254.01
Lynard, Deborah P.	75.49
Mann, Shirley A.	137.75
Metz, Pun	518.09
Millidge, Patricia A.	506.87
Mitchell, Henrietta	39.71
Mitchell, Oscar	18.56
Montgomery, Sussie P.	300.16
Moore, Lisa Y. Lake	200.53
Mausau, Tasi J.	363.81
Owens, Edith	386.99
Page, Shawn Tyrone	28.80
Perry, Shirley	66.45
Petersen, Rosalina A.	376.86
Prioleau, Janet	39.15
Rios, Eileen M.	163.19
Searles, Michael	166.32
Simmons, Sharon D.	424.32
Singleton, Cindereth	3.94
Singleton, Nelson	209.15
Smalls, Cynthia E.	468.59
Sorrill, Richard L.	146.25
Spencer, Kenneth	480.23
Valentine, Sarah	191.27
Washington, Harold	298.47
White, Jessie M. Gib	421.15
White, Lorraine Y.	387.32
Williams, Mary L.	54.68
Zadlo, Jessamina S.	176.09
Cadorete, Kitty	\$18,924.00